

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES REDDICK,

Plaintiff,

v.

GUADALUPE ALVAREZ, et al.,

Defendants.

No. 2:25-cv-1905 CSK P

ORDER

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this Court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis is granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By this order, plaintiff is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 1915(b)(1). By separate order, the Court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff is obligated to make monthly payments of twenty percent of the preceding month's income credited to plaintiff's trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time

1 the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C.  
2 § 1915(b)(2).

3 Plaintiff is granted an opportunity to elect to proceed with his potentially cognizable  
4 Eighth Amendment claim against defendant Guadalupe Alvarez, or plaintiff may elect to amend  
5 his complaint as discussed below.

#### 6 I. SCREENING STANDARDS

7 The court is required to screen complaints brought by prisoners seeking relief against a  
8 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The  
9 court must dismiss a complaint or portion thereof if the prisoner raised claims that are legally  
10 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek  
11 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

12 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
13 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th  
14 Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an  
15 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,  
16 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully  
17 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th  
18 Cir. 1989), superseded by statute as stated in Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir.  
19 2000) ("[A] judge may dismiss [in forma pauperis] claims which are based on indisputably  
20 meritless legal theories or whose factual contentions are clearly baseless."); Franklin, 745 F.2d at  
21 1227.

22 Rule 8(a)(2) of the Federal Rules of Civil Procedure "requires only 'a short and plain  
23 statement of the claim showing that the pleader is entitled to relief,' in order to 'give the  
24 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atlantic  
25 Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).  
26 In order to survive dismissal for failure to state a claim, a complaint must contain more than "a  
27 formulaic recitation of the elements of a cause of action;" it must contain factual allegations  
28 sufficient "to raise a right to relief above the speculative level." Bell Atlantic, 550 U.S. at 555.

1 However, “[s]pecific facts are not necessary; the statement [of facts] need only ‘give the  
2 defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” Erickson v.  
3 Pardus, 551 U.S. 89, 93 (2007) (quoting Bell Atlantic, 550 U.S. at 555, citations and internal  
4 quotations marks omitted). In reviewing a complaint under this standard, the court must accept as  
5 true the allegations of the complaint in question, Erickson, 551 U.S. at 93, and construe the  
6 pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236  
7 (1974), overruled on other grounds, Davis v. Scherer, 468 U.S. 183 (1984).

## 8 II. THE CIVIL RIGHTS ACT

9 To state a claim under § 1983, a plaintiff must demonstrate: (1) the violation of a federal  
10 constitutional or statutory right; and (2) that the violation was committed by a person acting under  
11 the color of state law. See West v. Atkins, 487 U.S. 42, 48 (1988); Jones v. Williams, 297 F.3d  
12 930, 934 (9th Cir. 2002). An individual defendant is not liable on a civil rights claim unless the  
13 facts establish the defendant’s personal involvement in the constitutional deprivation or a causal  
14 connection between the defendant’s wrongful conduct and the alleged constitutional deprivation.  
15 See Hansen v. Black, 885 F.2d 642, 646 (9th Cir. 1989); Johnson v. Duffy, 588 F.2d 740, 743-44  
16 (9th Cir. 1978). That is, plaintiff may not sue any official on the theory that the official is liable  
17 for the unconstitutional conduct of his or her subordinates. Ashcroft v. Iqbal, 556 U.S. 662, 679  
18 (2009). The requisite causal connection between a supervisor’s wrongful conduct and the  
19 violation of the prisoner’s constitutional rights can be established in a number of ways, including  
20 by demonstrating that a supervisor’s own culpable action or inaction in the training, supervision,  
21 or control of his subordinates was a cause of plaintiff’s injury. Starr v. Baca, 652 F.3d 1202,  
22 1208 (9th Cir. 2011).

## 23 III. PLAINTIFF’S COMPLAINT

24 Although plaintiff attaches the court’s complaint form, initially identifying three claims  
25 for relief (ECF No. 1 at 3, 6, 10), he appends a separate complaint which alleges only one claim  
26 for relief – deliberate indifference to safety and health under the Eighth Amendment. (ECF No. 1  
27 at 12-15.) Because there are no specific facts set forth in Claims I, II, and III of the complaint  
28 form, the Court considers plaintiff’s complaint as solely pursuing the Eighth Amendment claim

1 raised in the attached complaint.<sup>1</sup>

2 Plaintiff alleges the following. On July 20, 2024, while draining boiling water from an  
3 industrial kitchen kettle, the attached valve suddenly malfunctioned and burst off, causing a surge  
4 of scalding water to spray over plaintiff's legs and ankles. (ECF No. 1 at 13.) The valves have  
5 been in disrepair for a prolonged time, and inmates were required to wrap plastic and string  
6 around the valves to keep them in place to prevent leaking, creating an ongoing dangerous  
7 condition. (*Id.*) Defendant Guadalupe Alvarez, Dining Manager 2 at Solano State Prison,  
8 knowingly disregarded this excessive risk to plaintiff's health and safety, and was deliberately  
9 indifferent to plaintiff's health and safety by exposing plaintiff to such hazardous equipment and  
10 failing to take corrective action by repairing or replacing the hazardous equipment. (*Id.* at 13,  
11 14.) As a result, plaintiff suffered second degree burns, extreme pain, and subsequent infection.  
12 (*Id.*) Plaintiff seeks money damages.

13 Plaintiff names J. Delucchi, Correctional Supervisor at Solano State Prison, as a  
14 defendant. J. Delucchi was supervising plaintiff on July 20, 2024, and witnessed the injury.  
15 (ECF No. 1 at 12, 13.) Plaintiff alleges defendant J. Delucchi refused to write or produce a report  
16 concerning the incident in violation of "CDCR policy and common standards of care,"  
17 "potentially to avoid scrutiny or liability," and "obstructed accountability." (*Id.* at 13-14.)

18 In addition, plaintiff names as defendants John/Jane Does 1 – 5, and claims he will seek to  
19 amend his complaint once their identities are discovered. (*Id.* at 12.)

#### 20 IV. EIGHTH AMENDMENT STANDARDS

21 The Eighth Amendment protects prisoners from inhumane conditions of confinement as  
22 well as inhumane methods of punishment. Morgan v. Morgensen, 465 F.3d 1041, 1045 (9th Cir.  
23 2006). The cruel and unusual punishment prohibition applies to all conditions within a prison,  
24 including work programs, medical care, housing facilities, and security measures. See, e.g.,  
25 Rhodes v. Chapman, 452 U.S. 337, 344-47 (1981). To state a cognizable civil rights claim, the

---

26 <sup>1</sup> To the extent plaintiff was attempting to have exhibits serve as supporting facts for Claims I, II  
27 and III, such effort is improper. The Court and defendants are not required to review exhibits and  
28 attempt to discern possible allegations therefrom. Rather, plaintiff must set forth specific facts he  
contends support the alleged constitutional violations.

prison officials' conduct "must involve more than ordinary lack of due care for the prisoner's interests or safety." Whitley v. Albers, 475 U.S. 312, 319 (1986); see also Estelle v. Gamble, 429 U.S. 97, 104 (1976); Wilson v. Seiter, 501 U.S. 294, 298-99 (1991) ("It is obduracy and wantonness, not inadvertence or error in good faith, that characterize the conduct prohibited by the Cruel and Unusual Punishments Clause, whether that conduct occurs in connection with establishing conditions of confinement, supplying medical needs, or restoring official control over a tumultuous cellblock"). In the context of working conditions, the Eighth Amendment is implicated only when a prison employee alleges that a prison official compelled him to "perform physical labor which [was] beyond [his] strength, endanger[ed his life] or health, or cause[d] undue pain." Morgan, 465 F.3d at 1045 (quoting Berry v. Bunnell, 39 F.3d 1056, 1057 (9th Cir. 1994)). Prison officials are liable only if they were deliberately indifferent to a substantial risk of serious harm. Farmer, 511 U.S. at 837 ("the official must both be aware of the facts from which the inference could be drawn that a substantial risk of harm exists, and he must also draw the inference"); see Wilson, 501 U.S. at 298-99, 302-03 (the official must actually know of the risk yet fail to take reasonable measures to ensure the prisoner's safety).

## V. DISCUSSION

Plaintiff's allegations state a potentially cognizable Eighth Amendment claim against defendant Guadalupe Alvarez. However, plaintiff fails to state a cognizable civil rights claim against defendant J. Delucchi. Allegations that a defendant violated a prison policy fails to give rise to a federal civil rights claim. See, e.g., Cousins v. Lockyer, 568 F.3d 1063, 1070 (9th Cir. 2009) (the failure to follow prison regulations or policies is not a federal constitutional violation.); Case v. Kitsap Cnty. Sheriff's Dep't, 249 F.3d 921, 929 (9th Cir. 2001) ("[O]ur focus is on whether a reasonable officer would have known that the [defendants'] conduct violated Case's federal statutory or constitutional rights rather than merely a state law or policy provision.").

## VI. PLAINTIFF'S OPTIONS

Plaintiff may proceed forthwith to serve defendant Guadalupe Alvarez and pursue his potentially cognizable Eighth Amendment claim against only her, or plaintiff may delay serving any defendant and attempt to state a cognizable claim against defendant J. Delucchi. If plaintiff

1 elects to proceed forthwith against defendant Guadalupe Alvarez, against whom he stated a  
2 potentially cognizable Eighth Amendment claim for relief, then within thirty days plaintiff must  
3 so elect on the attached form. In this event the Court will construe plaintiff's election as consent  
4 to dismissal of the claims against defendant J. Delucchi without prejudice. Under this option,  
5 plaintiff does not need to file an amended complaint.

6 Or, plaintiff may delay serving any defendant and attempt again to state a cognizable  
7 claim against defendant J. Delucchi. If plaintiff elects to attempt to amend his complaint to state  
8 a cognizable claim against defendant J. Delucchi, plaintiff has thirty days to amend. Plaintiff is  
9 not granted leave to add additional claims or defendants.

10 Any amended complaint must show the federal court has jurisdiction, the action is brought  
11 in the right place, plaintiff has complied with the California Government Claims Act, and plaintiff  
12 is entitled to relief if plaintiff's allegations are true. It must contain a request for particular relief.  
13 Plaintiff must identify as a defendant only persons who personally participated in a substantial  
14 way in depriving plaintiff of a federal constitutional right. Johnson v. Duffy, 588 F.2d 740, 743  
15 (9th Cir. 1978) (a person subjects another to the deprivation of a constitutional right if he does an  
16 act, participates in another's act, or omits to perform an act he is legally required to do that causes  
17 the alleged deprivation).

18 A district court must construe a pro se pleading "liberally" to determine if it states a claim  
19 and, prior to dismissal, tell a plaintiff of deficiencies in his complaint and give plaintiff an  
20 opportunity to cure them. See Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir. 2000). While  
21 detailed factual allegations are not required, "[t]hreadbare recitals of the elements of a cause of  
22 action, supported by mere conclusory statements, do not suffice." Ashcroft v. Iqbal, 556 U.S.  
23 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). Plaintiff  
24 must set forth "sufficient factual matter, accepted as true, to 'state a claim to relief that is  
25 plausible on its face.'" Ashcroft, 556 U.S. at 678 (quoting Bell Atlantic Corp., 550 U.S. at 570).

26 A claim has facial plausibility when the plaintiff pleads factual  
27 content that allows the court to draw the reasonable inference that the  
28 defendant is liable for the misconduct alleged. The plausibility  
standard is not akin to a "probability requirement," but it asks for  
more than a sheer possibility that a defendant has acted unlawfully.

1 Where a complaint pleads facts that are merely consistent with a  
2 defendant's liability, it stops short of the line between possibility and  
3 plausibility of entitlement to relief.

4 Ashcroft, 556 U.S. at 678 (citations and quotation marks omitted). Although legal conclusions  
5 can provide the framework of a complaint, they must be supported by factual allegations, and are  
6 not entitled to the assumption of truth. Id.

7 An amended complaint must be complete in itself without reference to any prior pleading.  
8 Local Rule 220; see Ramirez v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015)  
9 ("an 'amended complaint supersedes the original, the latter being treated thereafter as non-  
10 existent.'" (internal citation omitted)). Once plaintiff files an amended complaint, the original  
11 pleading is superseded. Plaintiff is not granted leave to add new claims or new defendants.

## 12 VII. CONCLUSION

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 2) is granted.

15 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff  
16 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.  
17 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the  
18 Director of the California Department of Corrections and Rehabilitation filed concurrently  
19 herewith.

20 3. Claims against defendant J. Delucchi is dismissed with leave to amend. Within thirty  
21 days of service of this order, plaintiff may amend his complaint to attempt to state cognizable  
22 claims against defendant J. Delucchi. Plaintiff is not obligated to amend his complaint.

23 4. The allegations in the complaint are sufficient to state potentially cognizable Eighth  
24 Amendment claims against defendant Guadalupe Alvarez. See 28 U.S.C. § 1915A. If plaintiff  
25 chooses to proceed solely as to such claim, plaintiff shall so indicate on the attached form and  
26 return it to the Court within thirty days from the date of this order. In this event, the Court will  
27 construe plaintiff's election to proceed forthwith as consent to an order dismissing defendant J.  
28 Delucchi without prejudice.

1           5. Failure to comply with this order will result in a recommendation that this action be  
2 dismissed.

3  
4 Dated: July 15, 2025

  
\_\_\_\_\_  
CHI SOO KIM  
UNITED STATES MAGISTRATE JUDGE

5  
6 /l/redd1905.14o



UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES REDDICK,

Plaintiff,

v.

GUADALUPE ALVAREZ, et al.,

Defendants.

No. 2:25-cv-1905 CSK P

NOTICE OF ELECTION

Plaintiff elects to proceed as follows:

Plaintiff opts to proceed with his Eighth Amendment claims against defendant Guadalupe Alvarez. Under this option, plaintiff consents to dismissal of defendant J. Delucchi without prejudice.

**OR**

Plaintiff opts to file an amended complaint and delay service of process.

DATED:

\_\_\_\_\_  
Plaintiff